

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 9 Louisville, Kentucky

TOWNSEND TREE SERVICE CO., INC.

Employer

and

LOCAL UNION 2100 OF THE INTERNATIONAL  
BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

Petitioner

Case 9-RC-17373

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act: 1/

**All employees of the Employer engaged in power distribution line clearance work for Louisville Gas and Electric Company in the Louisville, Kentucky area, excluding all office clerical employees, all other employees, and all professional employees, guards, area supervisors, general foremen, area managers, forestry supervisors and all other supervisors as defined in the Act.**

**DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Section 103.20 of the Board's Rules and Regulations requires that the Employer shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. on the day of the election. The term "working day" shall mean an entire 24 hour period excluding , Saturdays, Sundays and holidays. Eligible

to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Local Union 2100 of the International Brotherhood of Electrical Workers, AFL-CIO.**

### LIST OF ELIGIBLE VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters using full names, not initials, and their addresses which may be used to communicate with them.

**Excelsior Underwear, Inc.**, 156 NLRB 1236 (1966); **NLRB v. Wyman-Gordon Company**, 394 U.S. 759 (1969); **North Macon Health Care Facility**, 315 NLRB No. 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 2 copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in Region 9, National Labor Relations Board, 3003 John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio 45202-3271, on or before **May 3, 2000**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

### RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **May 10, 2000**.



Dated April 26, 2000

at Cincinnati, Ohio

/s/ Richard L. Ahearn

Richard L. Ahearn, Regional Director, Region 9

1/ The Employer, a corporation, is engaged in clearing and maintaining rights of way for public utilities throughout the United States, including for Louisville Gas and Electric Company in the Louisville, Kentucky area, the only location involved in this proceeding. There is no history of collective bargaining affecting any of the Employer's approximately 35 employees in the unit found appropriate.

The parties are in substantial agreement, and I find, that all employees of the Employer engaged in power distribution line clearance work for Louisville Gas and Electric Company in the Louisville, Kentucky area, excluding all office clerical employees, all other employees, and all professional employees, guards, area supervisors, general foremen, area managers and all other supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining. The parties disagree, however, on the unit placement of 15 forestry supervisors whom the Employer, contrary to the Petitioner, would exclude from the unit as supervisors within the meaning of Section 2(11) of the Act. The unit placement of the forestry supervisors is the only issue involved in this proceeding.

### **THE EMPLOYER'S OPERATION AND UNIT PLACEMENT OF FORESTRY SUPERVISORS:**

The Employer's corporate offices are located in Parker City, Indiana. Mick Saulman is the area manager who has overall supervisory responsibilities for the Employer's Louisville, Kentucky operations. The official in direct charge of the Employer's Louisville operations on a daily basis is the area supervisor, Elmer Goldsmith, who reports to Saulman. Goldsmith is assisted by general foreman, Gerald Caffee.

All work performed by the Employer in the Louisville, Kentucky area is for the Louisville Gas and Electric Company. It also appears from the record that Louisville Gas and Electric establishes guidelines for the performance of the work and dictates the number of man hours needed to complete the assignment. The work to be performed is listed on a "grid," which consists of the "paths" the power lines follow out of the various electrical substations throughout the area serviced by the Employer. Each "grid" is approximately 10 or 11 miles in length. The assignments (grids) are distributed by the area supervisor, Elmer Goldsmith, to the various crews who perform the work.

The Employer currently has 15 crews that perform various aspects of the work received from Louisville Gas and Electric. There are five "bucket crews." These crews operate trucks with a hydraulic bucket (cherry picker) on top which is used to trim trees underneath and near power lines. There are seven "manual crews" that trim trees and remove branches and bushes in places where a bucket truck cannot be utilized. The manual crews use chainsaws and other tree trimming and climbing equipment. The manual crews sometimes have to remove an entire tree and often have to remove large branches. In performing their work, manual crew members have to climb trees and remove the branches, making sure that they do not fall on the power lines. Although not entirely clear from the record, there are apparently three "ticket crews" that perform correction work required by Louisville Gas and Electric. The employees on all crews travel to the jobsite in trucks owned by the Employer. The trucks used by the manual and ticket crews, unlike those operated by the bucket crew, do not have hydraulic buckets, but instead pull a "chipper" machine used to mulch the branches and bushes which are removed in the clearing operation. All trucks are parked at a central location where the employees assemble in the

morning prior to traveling to individual job locations. It does not appear that the Employer has its own parking facility but arranges to park the trucks on property owned by other businesses in the Louisville area.

The bucket and ticket crews consist of two or three employees, including a forestry supervisor, while the manual crews are made up of approximately five employees, including a crew supervisor. In addition to the forestry supervisors, the manual crews are staffed with "A" climbers and "B" and "C" tree trimmers. It is not clear from the record what classifications of employees work on the bucket and ticket crews but those crews are apparently staffed by similar classifications. Employees in classification "C," which is an entry level position, earn \$8.50 per hour. Employees in classification "B" earn \$9.50 per hour and employees in classification "A" can earn up to \$11.44 per hour. Although hourly paid, forestry supervisors earn \$2 more per hour than the next highest paid employee on their crew. All employees are apparently entitled the same benefits. However, the forestry supervisors wear different colored hats and a button which indicates that they are "supervisors."

Each crew is headed up by a forestry supervisor whose unit placement is in dispute. The current forestry supervisors are Michael Brown, Joe Hagen, Mark Meals, Edward Kinberger, Joseph Lanter, Jeff Abscher, Lonnie Huff, Tim Lindsey, Jerry Smith, Brian Clark, Dallas Milliner, Michael Huff, Paul Patrowski, Wade Garvin and Marty Logan. Each forestry supervisor is responsible for a specific bucket, manual or ticket crew and is the only person in authority present for a good portion of the work day. The area supervisor often visits the jobsites but is not able to spend much time at any one location. The parties stipulated that, for the purpose of determining their supervisory status, all forestry supervisors have the same general responsibilities and possess and exercise the same authority. The record evidence supports this stipulation.

The record discloses that the forestry supervisors often work along with the other crew members. In this connection, the record discloses that the forestry supervisors spend approximately 40 to 50 percent of their time performing the same work as crew members, except for Michael Brown, who apparently does not perform any unit work. The job description for the forestry supervisors provides that they will supervise the work crew, secure any needed permits, plan work, assign duties to the crew members, train crew members, assume responsibility for accident prevention, order and maintain tools, prepare reports on work performed, account for the work time of crew members and work with the crew to provide tree clearance. Specifically, the record discloses that forestry supervisors instruct crew members as to what trees to trim, and the manner in which to prune trees so they will not need to be trimmed again for a 3-year period. The forestry supervisors determine whether a tree can be trimmed or has to be completely removed and the equipment necessary to perform the job. In performing their duties, forestry supervisors may move employees from one assignment to another if the need dictates.

The forestry supervisors are responsible for dealing with the public. For example, the forestry supervisors must obtain the approval of the property owner before trimming or cutting trees. In addition, the forestry supervisors implement the Employer's safety program and are required to attend periodic safety meetings. The forestry supervisors are responsible for completing all required forms on the work performed as well as employees' time and attendance records which are forwarded to the payroll department. Finally, each crew is expected to clear a certain area and to trim or cut a specified number of trees on a daily basis. If the crew does not

meet the assigned goal, the forestry supervisor is held accountable and can be demoted. Indeed, the record discloses that forestry supervisors have been demoted because their crews failed to achieve the assigned goals.

In performing their assigned duties, the record discloses that forestry supervisors issue disciplinary warnings, both oral and written to crew members. The warnings become part of the employees' personnel file. It appears that most of these warnings have been for absenteeism or tardiness; however, forestry supervisors have issued warnings, apparently based on their own judgment, for improper work. Although the forestry supervisors have recommended that crew members be removed or terminated, it appears from the record that the area supervisor would be consulted and make the final decision on the termination of an employee. Such a process, in fact, occurred with respect to the one termination on which substantial record testimony was presented.

The Employer maintains that the forestry supervisors have the independent authority to transfer employees from crew to crew. However, the record is not clear on the procedure utilized by forestry supervisors to transfer an employee. It appears if a forestry supervisor makes known to the area supervisor that his crew is short or if the area supervisor otherwise knows a crew is not fully staffed, the area supervisor will seek transfers from other crews. In the event a crew member is transferred, however, the record is clear that the forestry supervisor involved makes the decision on the employee to be transferred utilizing his own judgment. It also appears from the record that a forestry supervisor can transfer an employee from his crew because of work related problems. In those situations, however, it appears that he must coordinate with the area supervisor to arrange for another crew to take the employee, but the forestry supervisor's decision to transfer an employee under these circumstances is apparently never challenged.

The normal progression is for crew members to commence their employment in the "C" classification and advance to the "B" level and then to the "A" classification. Employees at the "B" level earn \$1 per hour more than those in the "C" classification (\$9.50 compared to \$8.50 per hour). Employees in an "A" classification may receive up to \$1.94 per hour more than employees at the "B" level (\$11.44 compared to \$9.50 per hour). The record discloses that forestry supervisors have complete discretion in promoting employees from a "C" to a "B" classification. When a forestry supervisor determines that a "C" classification employee is capable of performing work at the "B" level, the forestry supervisor completes the necessary paperwork promoting the employee and forwards it to the payroll department. The area supervisor also signs a copy of the change in status form promoting the employee, but the copy he signs is referred to as an "invoice" copy and he never second guesses the forestry supervisor who implements the promotion. Although it appears that most "C" level employees are promoted to the "B" classification approximately 6 months after commencing their employment, this is not an established policy. Indeed, on one occasion, the area supervisor suggested that an employee be promoted but the forestry supervisor disagreed. The promotion was not implemented on the ground that the forestry supervisor was the person in the best position to evaluate the progress of the employee. Moreover, it appears from the record that if a forestry supervisor deems it appropriate, he can promote an employee prior to the completion of 6 months employment. With respect to the promotion of an employee from the "B" to the "A" classification, the same general procedure applies. However, it appears from the record that on some occasions promotion of employees from the "B" to the "A" classification may be discussed with the area supervisor before the promotion is implemented.

The record also shows that the forestry supervisors are actively involved in the hiring of employees. The area supervisor may inform a forestry supervisor that additional employees are needed or forestry supervisors may advise the area supervisor that a crew is short staffed and needs additional employees. Regardless, when it is determined that additional employees are needed, the forestry supervisor involved recruits applicants. In recruiting applicants, the forestry supervisor may rely on word of mouth that a person is seeking employment or he may even canvas local establishments in an effort to recruit applicants. After an individual expresses interest in employment, the forestry supervisor will interview the applicant. If the forestry supervisor believes the applicant will make a good employee, the forestry supervisor will hire the individual, inform him of his rate of pay and place him on the job immediately, often on the same day.

After he hires an individual, the forestry supervisor completes the necessary payroll forms, W-4s and workers' compensation forms. The forestry supervisor then has the employee complete a standard employment application. The forestry supervisors have copies of applications and other employment forms in their trucks. After the forms are completed for a newly-hired employee, they are forwarded directly by the forestry supervisor involved to the personnel and payroll department in Parker City, Indiana. The forestry supervisors do not have any discussions with the area supervisor or any other management official concerning individuals they intend to hire and no other management official interviews the applicant. Moreover, the forestry supervisors are not required to obtain approval from any official before hiring and placing an employee on the payroll. Although it appears that the Employer would prefer hiring employees with some tree trimming or climbing experience, such experience is not a requirement for employment and forestry supervisors have hired employees with no experience in the industry.

It appears from the record that forestry supervisors could release employees from work before the end of the shift if the need occurred and employees apparently contact forestry supervisors if they intend to be absent. However, vacations must be arranged through or approved by the area supervisor. If overtime is necessary, it must be ordered by the area supervisor and is generally requested by Louisville Gas and Electric. After overtime is approved, forestry supervisors sometimes arrange for a crew but there appears to be little discretion involved in performing this function.

### **CONCLUSION – STATUS OF THE FORESTRY SUPERVISORS:**

Section 2(11) of the Act defines a supervisor as a person:

. . . having authority in the interest of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

It must be noted, however, that in enacting Section 2(11) of the Act, Congress emphasized its intention that only supervisory personnel vested with "genuine management prerogatives"

should be considered supervisors, and not “straw bosses, leadmen, set up men and other minor supervisory employees.” See, *Chicago Metallic Corp.*, 273 NLRB 1677, 1688 (1985). Although the possession of any one of the indicia specified in Section 2(11) of the Act is sufficient to confer supervisory status, such authority must be exercised with independent judgment. *Hydro Conduit Corp.*, 254 NLRB 433, 437 (1981). For example, the exercises of “supervisory authority” in merely a routine, clerical, perfunctory or sporadic manner does not confer supervisory status. *Feralloy West Corp. and Pohng Steel America*, 277 NLRB 1083, 1084 (1985); *Chicago Metallic Corp.* supra; *Advance Mining Group*, 260 NLRB 486-507 (1982). It is also well established that the burden of proving that an individual is a supervisor rests on the party asserting supervisory status. See, *Beverly Enterprises-Ohio d/b/a Northcrest Nursing Home*, 313 NLRB 491 (1993); *Ohio Masonic Home*, 295 NLRB 390, 393 (1989). “Accordingly, whenever the evidence is in conflict or otherwise inconclusive on particular indicia of supervisory authority [the Board] will find that supervisory status has not been established at least on the basis of those indicia.” *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989).

The Employer maintains that the forestry supervisors should be excluded from the unit as statutory supervisors. Thus, the Employer has the burden of establishing their supervisory status. Based on the record evidence discussed in detail above, I conclude that the Employer has met the burden of establishing that the forestry supervisors are supervisors within the meaning of Section 2(11) of the Act. In reaching this conclusion, I note that the ratio of forestry supervisors to rank-and-file employees is very high, resulting in a supervisor for every two to four other crew members. Although such a ratio militates against a supervisory finding, a disproportionate ratio of supervisors to employees is not a controlling factor. Indeed, if an individual possesses and exercises an indicia of supervisory authority set forth in Section 2(11) of the Act, the individual will be found to be a supervisor regardless of the number of employees for whom he is responsible. *W.C. Richards Co.*, 199 NLRB 1069 (1972). I am also mindful that the work assignments and directions given by the forestry supervisors to other crew members are somewhat routine and appear to require little independent judgment. For example, the trimming and removal of trees, branches and brush by the crew members, often with the assistance of the forestry supervisors, are performed daily and are repetitious. See, *Hydro Conduit Corp.*, supra; *North Shore Weeklies, Inc.*, 317 NLRB 1128 (1995).

However, the record discloses that the forestry supervisors possess a number of the primary indicia of supervisory authority set forth in Section 2(11) of the Act. For example, the forestry supervisors recruit, interview and independently hire employees. Indeed, the record discloses that the Employer has a high turnover rate and that the forestry supervisors recruit and hire employees on a regular and ongoing basis. In performing this function, the forestry supervisors actively seek out potential employees and employ them without any guidance from higher level management. Forestry supervisors complete all paperwork necessary for hiring an individual, including W-4 and workers’ compensation forms. The forestry supervisors also have the applicant complete an application and submit it along with the other paperwork to the Employer’s personnel and payroll department. The forestry supervisor involved advises the newly-hired employee of his pay rate and places him on the job immediately, often on the same day. All such actions occur without any contact with higher management. Although the area supervisor may determine and advise the forestry supervisors that additional employees are needed, such circumstance does not detract from the independent discretion utilized by the forestry supervisors in recruiting, interviewing and hiring employees. It is axiomatic that the

discretion to independently hire employees, standing alone, is sufficient to confer supervisory status upon the individual exercising such authority. *Paramount Press, Inc.*, 187 NLRB 586 (1970); *Chickasha Mobile Homes, Inc.*, 193 NLRB 807 (1971) (material handling “supervisor” is a statutory supervisor for he has and uses authority to hire employees and recommend such action); *Lawson Milk Co.*, 143 NLRB 916, 919-920 (1963).

In addition to the authority to hire employees, the record discloses that the forestry supervisors exercise independent judgment in transferring employees and can, without any oversight, promote employees, resulting in wage increases. The possession and exercise of such primary indicia of supervisory authority are also sufficient to confer supervisory status on the forestry supervisors. *Harbor City Volunteer Ambulance Squad*, 318 NLRB 764 (1995); *Ventura Industries, Inc.*, 327 NLRB No. 165 (1999). Indeed, the record discloses that the forestry supervisors not only independently promote employees but can effectively block a promotion, thereby denying an employee a wage increase. See, *Entergy Systems & Service, Inc.*, 328 NLRB No. 125 (1999).

It also appears that the forestry supervisors can, at least, effectively recommend discipline or even the discharge of an employee. The possession of such authority to effectively recommend discipline of employees is sufficient to confer supervisory status on the forestry supervisors. *Kentucky Utilities Co.*, 209 NLRB 1067 (1974). Finally, the forestry supervisors have the authority to excuse absences at least for a limited period of time. Such further primary indicia of supervisory authority militates in favor of finding that the forestry supervisors are supervisors within the meaning of Section 2(11) of the Act. *Birmingham Fabricating Co.*, 140 NLRB 640, 642 (1963); *Western Saw Manufacturers*, 155 NLRB 1323, fn. 11 (1965).

The arguments made, and cases cited, by the Petitioner in its brief do not support its position that the forestry supervisors are not supervisors within the meaning of Section 2(11) of the Act. The Petitioner cites *John N. Hansen Co.*, 293 NLRB 63 (1989); *Grey’s Colonial Acres Boarding Home for the Aged*, 287 NLRB 877 (1987); *Arizona Public Service Co.*, 310 NLRB 477 (1993); *Green Acres County Care Center*, 327 NLRB No. 57 (1998) and *Alois Box Co.*, 326 NLRB No. 110 (1998), in support of its position that the forestry supervisors are not statutory supervisors because they merely serve as a conduit of management in making work assignments and that any directions over the work of other employees are routine, involving repetitive tasks. I am inclined, as previously discussed, to agree with the Petitioner, that the forestry supervisors exercise insufficient independent judgment in making work assignments and directing employees’ work to cloak them with supervisory authority. As noted by the Petitioner, the authority exercised by the forestry supervisors in making work assignments and directing employees is for the most part routine, involving repetitive tasks. I also agree with the Petitioner that *Winco Petroleum Co.*, 241 NLRB 1118 (1979) and *John N. Hansen Co.*, supra, stand for the proposition that merely giving an employee the title of “supervisor” does not make the employee a statutory supervisor nor does the fact that an employee is required to complete certain paper work confer supervisory status. *Alois Box Co.*, supra; *Jordan Marsh Stores Corp.*, 317 NLRB 460 (1995).

In its brief, however, the Petitioner ignores or places little emphasis on the primary indicia of supervisory authority possessed and independently exercised by the forestry supervisors. For example, in addressing the role of the forestry supervisors in the hiring process, the Petitioner states in its brief, “Management apparently has on occasion enlisted the support of forestry



foremen . . . to help find willing and able persons for physically strenuous work . . . in order to avoid being shorthanded.” The Petitioner then asserts that the forestry supervisors inquire about people interested in working and puts them to work quickly because they are shorthanded and submits the paperwork to the area supervisor to sign and approve. This argument ignores the substantial and unrefuted record testimony by the only two witnesses that testified at the hearing, Area Supervisor Elmer Goldsmith and Forestry Supervisor Ed Kinberger, that the forestry supervisors independently recruit, interview and hire applicants, often placing them to work on the same day. Contrary to the implication in the Petitioner’s brief, the forestry supervisors complete all employment paperwork, including W-4s and have the applicants complete applications. The forestry supervisors have the employment forms and applications in their trucks. After the application and other paperwork are completed, the forestry supervisors forward them to the Employer’s personnel and payroll departments, not to the area supervisor. Indeed, the record evidence discloses that the forestry supervisors hire employees and place them on the payroll without any contact with or approval by the area supervisor or other management official. The Employer has not cited any case in which the Board found an individual not to be a supervisor who possessed the type of authority independently exercised by the forestry supervisors here in hiring employees.

In maintaining that the forestry supervisors are not statutory supervisors based on their authority to transfer employees, the Petitioner cites *J.C. Brock Corporation*, 314 NLRB 157 (1994). *Brock* is distinguishable from the subject case. In *Brock*, the Board found that “line coordinators” were not statutory supervisors based on their authority to move employees from line to line. The Board found that most employees remained on the same line for the entire day and that employees automatically knew when to change lines. Thus, the Board found that line changes were routine and the line coordinators did not exercise independent judgment in assigning employees to different lines. Here, the forestry supervisors can transfer employees from their crews because of work problems or conflicts with other crew members. Moreover, the record shows that their decision to transfer an employee is never challenged or questioned by higher management. Contrary to the assertion in the Petitioner’s brief, the record does not disclose that forestry supervisor Ed Kinberger attempted to discharge an employee but had his decision overruled by the previous area supervisor. Indeed, the record discloses that Kinberger stated that he would not work with the employee and wanted him off his crew, resulting in the employee’s transfer.

With respect to promotions, the Petitioner, without citing any case authority, merely states in its brief that the role of the forestry supervisors in the promotion of employees does not confer supervisory status because it is the general practice for an employee to be promoted from “C” to “B” classification after 6 months and from “B” to “A” classification after 1 year. Although employees normally receive promotions after 6 months and a year of employment, such is not always the case. Indeed, the record shows that employees have received earlier promotions and, at least, on one occasion a forestry supervisor blocked a promotion suggested by the area supervisor. In any event, contrary to the Petitioner’s contention in its brief, the record discloses that the forestry supervisors have the independent authority to promote employees resulting in pay raises, particularly from the “C” to the “B” classification. The forestry supervisors not only independently determine when employees are ready for promotion but complete the paperwork necessary to effectuate the promotion and pay raises and submits it directly to the Employer’s personnel and payroll department.

Based on the foregoing, the entire record and having carefully considered the arguments of the parties at the hearing and in their briefs, I find that the forestry supervisors possess and independently exercise, on a regular basis, several of the primary indicia of supervisory authority set forth in Section 2(11) of the Act. In particular, I note that they recruit, interview and hire employees independently and without any immediate oversight by higher level management and utilizing their own independent judgment promote employees, resulting in their receiving pay increases. *Paramount Press, Inc.*, supra; *Ventura Industries*, supra; *Entergy Systems & Service, Inc.*, supra. Accordingly, the forestry supervisors are supervisors within the meaning of Section 2(11) of the Act and I shall exclude them from the unit.

**STIPULATED SUPERVISORS:**

The parties stipulated and the record shows, that the area manager, Mick Saulman; the area supervisor, Elmer Goldsmith and the general foreman, Gerald Caffee, have the authority to hire, discharge or discipline employees, or to direct their work in a manner requiring the use of independent judgment, and are supervisors within the meaning of Section 2(11) of the Act. Accordingly, I shall exclude them from the unit.

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